

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 18 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

EDMOND ROBERT MANSOOR,

Plaintiff - Appellant,

v.

ZAANDAM M/V, its engines,
appurtenances and tackle, in rem;
HOLLAND AMERICA LINE
WESTOURS INC.; HAL NEDERLAND
NV CORP; HOLLAND AMERICAN
LINE NV; HOLLAND AMERICA INC;
HOLLAND AMERICA LINE - USA INC,

Defendants - Appellees.

No. 06-35795

D.C. No. CV-05-01027-MJP

MEMORANDUM^{*}

Appeal from the United States District Court
for the Western District of Washington
Marsha J. Pechman, District Judge, Presiding

Argued and Submitted April 7, 2008
Seattle, Washington

Before: REINHARDT, TASHIMA, and McKEOWN, Circuit Judges.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

The district court, after a bench trial, ruled in favor of Holland America Line on Edmond Mansoor's negligence claim arising from a fall he took on a cruise ship operated by Holland America. Mansoor appeals, arguing that the district erred in finding he failed to establish Holland America had actual or constructive notice of the food spill that he claims was the cause of his slip.

Under maritime law, which governs this case, a defendant is generally not liable for negligence unless it had actual or constructive notice of the particular hazard that led to the injury. See Lee v. Pac. Far East Line, Inc., 566 F.2d 65, 67 (9th Cir. 1971). Mansoor failed to establish that Holland America had actual or constructive notice of the alleged spill. No evidence was presented that Holland America knew of the spilled food on which Mansoor allegedly slipped, and Mansoor did not show that the spill was present long enough to give Holland America constructive notice.

Even if we were to adopt the "method of operation" standard, as Mansoor urges us to do, he cannot prevail on his claim, regardless of which party bears the burden of proof. Not only did Mansoor fail to present any evidence that Holland America's administration of the self-service food bar was unreasonably dangerous, but Holland America's unrefuted evidence was to the contrary.

AFFIRMED.